



Sen. Dan Kotowski

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LRB099 03413 KTG 36196 a

1 AMENDMENT TO SENATE BILL 142

2 AMENDMENT NO. _____. Amend Senate Bill 142 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Consumer Fraud and Deceptive Business
5 Practices Act is amended by changing Section 2B as follows:

6 (815 ILCS 505/2B) (from Ch. 121 1/2, par. 262B)

7 Sec. 2B. Where a sale of merchandise involving \$25 or more
8 is made or contracted to be made whether under a single
9 contract or under multiple contracts, to a consumer by a seller
10 who is physically present at the consumer's residence, that
11 consumer may avoid the contract or transaction by notifying the
12 seller within 3 full business days following that day on which
13 the contract was signed or the sale was made and by returning
14 to the person, in its original condition, any merchandise
15 delivered to the consumer under the contract or sale. At the
16 time the transaction is made or the contract signed, the person

1 shall furnish the consumer with a fully completed receipt or
 2 contract pertaining to the transaction, in substantially the
 3 same language as that principally used in the oral presentation
 4 to the consumer, containing a "Notice of Cancellation"
 5 informing the consumer that he may cancel the transaction at
 6 any time within 3 days and showing the date of the transaction
 7 with the name and address of the person, and in immediate
 8 proximity to the space reserved in the contract for the
 9 consumer's signature or on the front page of the receipt if a
 10 contract is not used, a statement which shall be enclosed in a
 11 box and in bold face type, in capital letters, in at least
 12 16-point ~~10-point~~ type and in substantially the following form:

13 "YOU, THE CONSUMER, MAY CANCEL THIS TRANSACTION AT ANY TIME
 14 PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF
 15 THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM
 16 FOR AN EXPLANATION OF THIS RIGHT."

17 Attached to the receipt or contract shall be a completed
 18 form in duplicate, captioned "NOTICE OF CANCELLATION" which
 19 shall be easily detachable and which shall contain in 10 point
 20 bold face type the following information and statements in the
 21 same language as that used in the contract:

22 NOTICE OF CANCELLATION

23 (enter date of transaction)

24

25 (Date)

26 YOU MAY CANCEL THIS TRANSACTION, WITHOUT ANY PENALTY OR

1 OBLIGATION, WITHIN 3 BUSINESS DAYS FROM THE ABOVE DATE.

2 IF YOU CANCEL, ANY PROPERTY TRADED IN, ANY PAYMENTS MADE BY
3 YOU, AND ANY NEGOTIABLE INSTRUMENT EXECUTED BY YOU UNDER THE
4 CONTRACT OR TRANSACTION WILL BE RETURNED WITHIN 10 BUSINESS
5 DAYS FOLLOWING RECEIPT BY THE SELLER OF YOUR CANCELLATION
6 NOTICE, AND ANY SECURITY INTEREST ARISING OUT OF THE
7 TRANSACTION WILL BE CANCELLED.

8 IF YOU CANCEL, YOU MUST MAKE AVAILABLE TO THE SELLER AT
9 YOUR RESIDENCE IN SUBSTANTIALLY AS GOOD A CONDITION AS WHEN
10 RECEIVED, ANY GOODS DELIVERED TO YOU UNDER THIS CONTRACT OR
11 TRANSACTION, OR YOU MAY IF YOU WISH, COMPLY WITH THE
12 INSTRUCTIONS OF THE SELLER REGARDING THE RETURN SHIPMENT OF THE
13 GOODS AT THE SELLER'S EXPENSE AND RISK.

14 IF YOU MAKE THE GOODS AVAILABLE TO THE SELLER AND THE
15 SELLER DOES NOT PICK THEM UP WITHIN 20 DAYS OF THE DATE OF YOUR
16 NOTICE OF CANCELLATION, YOU MAY RETAIN OR DISPOSE OF THE GOODS
17 WITHOUT ANY FURTHER OBLIGATION. IF YOU FAIL TO MAKE THE GOODS
18 AVAILABLE TO THE SELLER, OR IF YOU AGREE TO RETURN THE GOODS TO
19 THE SELLER AND FAIL TO DO SO, THEN YOU REMAIN LIABLE FOR
20 PERFORMANCE OF ALL OBLIGATIONS UNDER THE CONTRACT.

21 TO CANCEL THIS TRANSACTION, MAIL OR DELIVER A SIGNED AND
22 DATED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER WRITTEN
23 NOTICE, OR SEND A TELEGRAM, TO (Name of seller), AT (address of
24 seller's place of business) NOT LATER THAN MIDNIGHT OF (date).

25 I HEREBY CANCEL THIS TRANSACTION.

26 (Date)

1
 2 (Buyer's signature)

3 Such written "Notice of Cancellation" may be sent by the
 4 consumer to the person to cancel the contract. The 3 day period
 5 provided for in this Section does not commence until the
 6 consumer is furnished a "Notice of Cancellation", and the
 7 address at which such notice to the seller can be given. If
 8 those conditions are met, the seller must return to the
 9 consumer the full amount of any payment made or consideration
 10 given under the contract or for the merchandise. It is an
 11 unlawful practice within the meaning of this Act for any person
 12 to

13 (a) Fail, before furnishing copies of the "Notice of
 14 Cancellation" to the consumer, to complete the copies by
 15 entering the name of the person, the address of the person's
 16 place of business, the date of the transaction, and the date,
 17 not earlier than the third business day following the date of
 18 the transaction, by which the consumer may give notice of
 19 cancellation;

20 (b) Include in any contract or receipt under this Section
 21 any confession of judgment or any waiver of any of the rights
 22 to which the consumer is entitled under this Section including
 23 specifically his right to cancel the transaction in accordance
 24 with the provisions of this Section;

25 (c) Fail to inform each consumer orally, at the time he
 26 signs the contract or purchases or leases the goods or

1 services, of his right to cancel;

2 (d) Misrepresent in any manner the consumer's right to
3 cancel;

4 (e) Use any undue influence, coercion or any other wilful
5 act or representation to interfere with the consumer's exercise
6 of his rights under this Section;

7 (f) Fail or refuse to honor any valid notice of
8 cancellation by a consumer and within 10 business days after
9 the receipt of such notice, to

10 (i) refund all payments made under the contract or
11 sale,

12 (ii) return any goods or property traded in, in
13 substantially as good a condition as when received by the
14 person, or

15 (iii) cancel and return any negotiable instrument
16 executed by the consumer in connection with the contract or
17 transaction and take any action necessary or appropriate to
18 terminate promptly any security interest created in the
19 transaction;

20 (g) Negotiate, transfer, sell, or assign any note or other
21 evidence of indebtedness to a finance company or other third
22 party prior to midnight of the fifth business day following the
23 day the contract was signed or the goods or services were
24 purchased or leased; or

25 (h) Fail, within 10 business days of receipt of the
26 consumer's notice of cancellation, to notify him whether the

1 seller intends to repossess or to abandon any shipped or
2 delivered goods.

3 For the purposes of this Section, the word "sale" includes
4 a sale, lease or rental.

5 This Section does not apply to any transaction

6 (a) made pursuant to prior negotiations in the course of a
7 visit by the consumer to a retail business establishment having
8 a fixed permanent location where the goods are exhibited, or
9 the services are offered, for sale or lease on a continuing
10 basis;

11 (b) in which the consumer is accorded the right of
12 rescission by the provisions of the Consumer Credit Protection
13 Act (15 U.S.C. 1635) or regulations issued pursuant thereto;

14 (c) in which the consumer has initiated the contact and the
15 goods or services are needed to meet a bona fide immediate
16 personal emergency of the consumer, and the consumer furnishes
17 the person with a separate dated and signed personal statement
18 in the consumer's handwriting describing the situation
19 requiring immediate remedy and expressly acknowledging and
20 waiving the right to cancel the sale within 3 business days;

21 (d) conducted and consummated entirely by mail or telephone
22 without any other contact between the consumer and the person
23 or its representative prior to delivery of the goods or
24 performance of the services;

25 (e) in which the consumer has initiated the contact and
26 specifically requested the person to visit his home for the

1 purpose of repairing or performing maintenance upon the
2 consumer's personal property, on the condition that if, in the
3 course of such a visit, the person sells the consumer the right
4 to receive additional services or goods other than replacement
5 parts necessarily used in performing the maintenance or in
6 making the repairs, the sale of those additional goods or
7 services does not fall within this exclusion;

8 (f) pertaining to the sale or rental of real property, to
9 the sale of insurance or to the sale of securities or
10 commodities by a broker-dealer registered with the Securities
11 and Exchange Commission; or

12 (g) between a consumer and a loan broker licensed under the
13 Residential Mortgage License Act of 1987 when (i) the
14 transaction involves obtaining a mortgage loan on real estate
15 and (ii) the first contact respecting the transaction is
16 initiated by the consumer or by another person at the request
17 of the consumer.

18 (Source: P.A. 90-764, eff. 1-1-99.)

19 Section 99. Effective date. This Act takes effect January
20 1, 2016."